



Customs and Excise Management Act 1979

1979 CHAPTER 2

PART X

DUTIES AND DRAWBACKS—GENERAL PROVISIONS

Drawback, allowances, duties, etc.—general

[^{F1}136 Offences in connection with claims for drawback, etc.

- (1) If any person, with intent to defraud Her Majesty, obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which—
 - (a) is not lawfully payable or allowable in respect thereof; or
 - (b) is greater than the amount so payable or allowable,he shall be guilty of an offence under this subsection.
- (1A) If any person, without such intent as is mentioned in subsection (1) above, does any of the things there mentioned, he shall be guilty of an offence under this subsection.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
 - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both;

and a person guilty of an offence under subsection (1A) above shall be liable on summary conviction to a penalty of level 3 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater.]

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- (3) Any goods in respect of which an offence under subsection (1) [^{F2}or (1A)] above is committed shall be liable to forfeiture; but in the case of a claim for drawback, the Commissioners may, if they see fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as they consider proper.
- (4) Without prejudice to the foregoing provisions of this section, if, in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any entry made thereof in connection with that claim, the goods shall be liable to forfeiture and any person by whom any such entry or claim was made shall be liable on summary conviction to a penalty of three times the amount claimed or [^{F3}level 3 on the standard scale], whichever is the greater.
- (5) Subsection (4) above applies in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made where it is found that the goods, if sold for home use, would realise less than the amount claimed as it applies where the finding specified in that subsection is made except that it does not apply by virtue of this subsection to any claim under—
- (a) section 123 or 134(2) above; or
 - (b) section 46, 61 or 64 of the ^{M1}Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on certain spoilt liquors).
- [^{F4}(6) Without prejudice to section 6(5) of the European Communities Act 1972 (which provides for the application of certain enactments, including this section, if the Commissioners are charged or entrusted with the performance of certain duties in relation to the payment of refunds or allowances on goods exported or to be exported from the United Kingdom)—
- (a) references in this section to amounts by way of drawback include amounts payable by or on behalf of the Secretary of State, the Scottish Ministers, the National Assembly for Wales or (in relation to Northern Ireland) the Department of Agriculture and Rural Development by virtue of Community arrangements to which section 6(3) of the European Communities Act 1972 applies; and
 - (b) in relation to such amounts, subsection (3) above shall have effect with the omission of the words from “but in the case” onwards.]

Annotations:

Amendments (Textual)

- F1** S. 136(1)(1A)(2) substituted for s. 136(1)(2) by Finance Act 1988 (c. 39, SIF 40:1), s. 12(3)(6)
- F2** Words inserted by Finance Act 1988 (c. 39, SIF 40:1), s. 12(3)(6)
- F3** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F4** S. 136(6) substituted (15.11.2001) by S.I. 2001/3686, reg. 6(7)(b)

Marginal Citations

- M1** 1979 c. 4

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Changes and effects yet to be applied to :

- s. 136(2)(a) sum substituted for words by S.I. 2015/664 Sch. 2 para. 1(16)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by S.I. 2008/41 reg. 13(3)
- Act extended by 2002 c. 29 s. 451(4)
- Act modified by S.I. 2004/1740 reg. 16(5)
- Act modified by 1979 c. 4 Sch. 2A para. 3(5) (as inserted) by 2004 c. 12 Sch. 1
- Act power to apply conferred by 2017 c. 10 s. 54(3)
- Blanket amendment words substituted by S.I. 2011/1043 art. 3 4
- Blanket amendment words substituted by S.I. 2011/1043 art. 3 6

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(5) inserted by S.I. 2014/3302 Sch. para. 2(3)
- s. 50(5A)(a) word inserted by 2014 c. 12 s. 111(3)(b)
- s. 50(5A)(b) word inserted by S.I. 2005/1966 (N.I.) art. 3(4)(a)
- s. 50(5A)(b) word substituted by S.I. 2004/702 (N.I.) Sch. 7 para. 3
- s. 50(5A)(b) words substituted by S.I. 2004/702 (N.I.) Sch. 7 para. 3
- s. 50(5A)(c) and word omitted by 2014 c. 12 s. 111(3)(c)
- s. 50(5C) inserted by 2008 c. 4 Sch. 17 para. 8(3)(b)
- s. 50(5AA) inserted by 2014 c. 12 s. 111(3)(d)
- s. 60A inserted by 2014 c. 26 Sch. 21 para. 3
- s. 60B inserted by 2014 c. 26 Sch. 21 para. 6
- s. 61(5A) inserted by 2014 c. 26 Sch. 21 para. 4(4)
- s. 68(4A)(a) word inserted by 2014 c. 12 s. 111(7)(b)
- s. 68(4A)(a) words omitted by 2014 c. 12 s. 111(6)(a)
- s. 68(4A)(b) word inserted by S.I. 2005/1966 (N.I.) art. 3(4)(b)
- s. 68(4A)(b) word substituted by S.I. 2004/702 (N.I.) Sch. 7 para. 4
- s. 68(4A)(b) words substituted by S.I. 2004/702 (N.I.) Sch. 7 para. 4
- s. 68(4A)(c) and word omitted by 2014 c. 12 s. 111(7)(c)
- s. 68(4B) inserted by 2008 c. 4 Sch. 17 para. 8(4)(b)
- s. 68(4AA) inserted by 2014 c. 12 s. 111(7)(d)
- s. 79A applied (with modifications) by S.I. 2007/1334 art. 7(2)
- s. 112(7)(8) inserted by 2010 c. 33 Sch. 13 para. 10
- s. 112A applied by S.I. 2016/1172 reg. 22 Sch. 2 Pt. 1 para. 1
- s. 112A inserted by 2010 c. 33 Sch. 13 para. 11
- s. 118G(1) s. 118G renumbered as s. 118G(1) by 2010 c. 33 Sch. 13 para. 15(2)
- s. 118G(1) words substituted by 2012 c. 14 Sch. 24 para. 42(2)
- s. 118G(1) words substituted by 2014 c. 26 Sch. 28 para. 14
- s. 118G(2)(3) inserted by 2010 c. 33 Sch. 13 para. 15(3)
- s. 118BA applied (with modifications) by S.I. 2016/1172 reg. 22 Sch. 2 Pt. 2 para. 4
- s. 118BA-118BD inserted by 2010 c. 33 Sch. 13 para. 12
- s. 118BB applied by S.I. 2016/1172 reg. 22 Sch. 2 Pt. 1 para. 1
- s. 118BC substituted by 2012 c. 14 Sch. 24 para. 42(1)
- s. 118BD applied by S.I. 2016/1172 reg. 22 Sch. 2 Pt. 1 para. 1
- s. 118BD(1)(2) words substituted by 2014 c. 26 Sch. 28 para. 13(2)
- s. 118BD(3) words substituted by 2014 c. 26 Sch. 28 para. 13(3)
- s. 118BCA inserted by 2014 c. 26 Sch. 28 para. 12
- s. 139(1A)(1B) inserted by 2013 c. 29 s. 226(2)
- s. 139(5A) inserted by 2013 c. 29 s. 226(6)

- s. 143(7)-(10) inserted by 2013 c. 29 s. 227(6)
- s. 145(1)(a) words substituted by S.I. 2014/834 Sch. 2 para. 2(a)
- s. 146A(7)(a) s. 146A(7)(b) (c) substituted for words by 2005 c. 11 Sch. 4 para. 24
- s. 146A(7)(a) words substituted by S.I. 2014/834 Sch. 2 para. 2(b)
- s. 146A(7)(b) words omitted by 2016 c. 24 s. 174(2)(b)
- s. 146A(7)(c) words substituted by 2016 c. 24 s. 174(2)(c)
- s. 149(1A) inserted by 2007 c. 15 Sch. 13 para. 44
- s. 157A inserted by 2009 c. 26 s. 98(1)
- s. 161A(2A) inserted by 2010 c. 33 Sch. 13 para. 16(2)
- s. 164A inserted by 2009 c. 26 s. 99(1)
- s. 170(4A)(a) word inserted by 2014 c. 12 s. 111(5)(b)
- s. 170(4A)(a) words substituted by 2014 c. 12 s. 111(4)(a)
- s. 170(4A)(b) word inserted by S.I. 2005/1966 (N.I.) art. 3(4)(c)
- s. 170(4A)(b) word substituted by S.I. 2004/702 (N.I.) Sch. 7 para. 5
- s. 170(4A)(b) words substituted by S.I. 2004/702 (N.I.) Sch. 7 para. 5
- s. 170(4A)(c) and word omitted by 2014 c. 12 s. 111(5)(c)
- s. 170(4C) inserted by 2008 c. 4 Sch. 17 para. 8(5)(b)
- s. 170(4AA) inserted by 2014 c. 12 s. 111(5)(d)
- s. 171(4A) inserted by 2005 c. 11 Sch. 4 para. 28
- Sch. 1 para. 1(b)(ii) words inserted by 2011 c. 13 Sch. 17 para. 21(a)(ii)
- Sch. 1 para. 2(c) words substituted by 2003 c. 44 Sch. 28 para. 2
- Sch. 1 para. 13 words substituted by 2011 c. 13 Sch. 17 para. 21(b)
- Sch. 1 Pt. 1A words substituted by S.I. 2011/1043 Sch. 1 para. 2
- Sch. 1 Pt. 1B words substituted by S.I. 2011/1043 Sch. 1 para. 2
- Sch. 2A inserted by 2013 c. 29 s. 226(7)
- Sch. 2A para. 3(2)(ba) inserted by 2016 c. 24 s. 175(3)(a)
- Sch. 2A para. 3(2)(b) word omitted by 2016 c. 24 s. 175(3)(a)
- Sch. 2A para. 3(2)(c) words inserted by 2016 c. 24 s. 175(3)(b)
- Sch. 2A para. 3(2)(d) and word words inserted by 2016 c. 24 s. 175(3)(c)
- Sch. 2A para. 4(2) words substituted by 2016 c. 24 s. 175(4)
- Sch. 3 para. 17(5)-(8) inserted by 2005 c. 4 Sch. 4 para. 97
- Sch. 3 para. 1(2)(ba) inserted by 2016 c. 24 s. 175(5)(a)
- Sch. 3 para. 1(2)(d) and word inserted by 2016 c. 24 s. 175(5)(c)

Commencement Orders yet to be applied to the Customs and Excise Management Act 1979

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/120 art. 2 Sch. commences (2002 c. 29)
- S.I. 2003/708 art. 2 commences (2001 c. 16)
- S.I. 2003/2629 art. 2 commences (2002 c. 28)
- S.I. 2004/81 art. 2-5 commences (2003 c. 44)
- S.I. 2005/1126 art. 2 commences (2005 c. 11)
- S.I. 2005/3056 art. 2 3 commences (2003 c. 17)
- S.I. 2005/3495 art. 2 commences (2005 c. 15)
- S.I. 2006/1014 art. 2 Sch. 1 2 commences (2005 c. 4)
- S.I. 2007/1064 art. 2 commences (2006 c. 12)
- S.I. 2007/2532 art. 2 commences (2007 c. 11)
- S.I. 2007/3580 art. 2 commences (2006 c. 13)
- S.I. 2009/511 art. 2 commences (2008 c. 9)
- S.I. 2009/3074 art. 2 3 commences (2008 c. 4)
- S.I. 2010/52 art. 2 commences (2009 c. 26)
- S.I. 2010/298 art. 2 Sch. commences (2009 c. 23)
- S.I. 2011/777 art. 2 commences (2010 c. 33)
- S.I. 2011/2515 art. 2 3 commences (2011 c. 13)

– [S.R. 2005/4 art. 3](#) commences ([S.I. 2004/702 \(N.I.\)](#))